



# The COURT COMPASS

NEWSLETTER OF THE MASSACHUSETTS JUDICIAL BRANCH



The Land Court now occupies a floor and a half of the building at 226 Causeway Street in Boston, northeast of the FleetCenter.

## Land Court Opens in New Boston Location

The Land Court opened for business as usual at 8:30 a.m. Monday, December 8, but the day was anything but typical.

Since closing the previous Friday evening at Boston's Edward W. Brooke Courthouse, the Court spent the intervening weekend moving to its new location, at 226 Causeway Street in Boston. In addition to the usual challenges of moving all the furniture, files, computers, and other equipment of a busy court, the Land Court staff and movers also had to contend with the first major snowstorm of the winter.

"The move was an incredible challenge over two days in a snowstorm," Land Court Chief Justice

*Land Court*

*continued on page 2*

## SJC Seeks Improvements in Transcript Preparation; Trial Court to Develop Plan

Two years ago, a Massachusetts attorney requested transcripts of a thirty-day trial in the Superior Court, and paid the court reporter for them in advance as required. Several months later, the court reporter who had recorded seven days of testimony informed the attorney that work on the transcripts could not begin until approximately 6,000 pages of previously ordered transcripts of other cases were completed. In a series of repeated calls and letters to the court reporter, the attorney was told the transcripts would be finished in January, then in March, then April, and then May, 2003. By July, the transcript still had not been received. Having compiled all of the record necessary to appeal the case except for the transcription of the seven days of testimony, he wrote to the Supreme Judicial Court's Study Committee on Trial Transcripts to ask that a system of mandatory deadlines be put in place to alleviate such difficulties.

The attorney's experience is not unique. Concerned by frequent delays in the migration of cases from the Trial Court to the appellate level, the Supreme Judicial Court formed the Study Committee in January, 2003, to study how transcripts are prepared in Massachusetts and recommend ways to improve the timeliness, accuracy, and efficiency of the process. The Committee, chaired by Appeals Court

**'The problem of delay in trial transcripts stands as the single greatest impediment to the progress of cases appealed from the Massachusetts trial courts.'**

**— Report of the Study Committee  
on Trial Transcripts**

*Trial Transcripts*

*continued on page 2*

## INSIDE

The Office of Court Interpreter Services answers the statewide need for qualified interpreters of more than fifty languages

Page 4

Judges of the Juvenile Court and Probate and Family Court finalize the adoptions of 74 children following National Adoption Day ceremonies in Boston and Greenfield

Page 6

The Information Technology Project launches MassCourts, the Trial Court's case management system that will become statewide, in the Boston Municipal Court

Page 7



*Land Court**continued from page 1*

Karyn F. Scheier said. "There was an enormous amount of work done by the staff of the Land Court and the Administrative Office of the Trial Court. This has been a real credit to both staffs."

The Court's space is in a newly remodeled building next to the FleetCenter, on the opposite side of the Central Artery. Four courtrooms, offices, and an extensive collection of files and site plans now occupy the building's entire second floor and half the third floor. The Court's telephone and facsimile numbers have not changed.

The Land Court moved to enable the Boston Municipal Court to relocate to the Brooke Courthouse from the John W. McCormack Courthouse on Devonshire Street in Boston. The Trial Court's lease of the McCormack Courthouse expires in 2005.

The Land Court's new building offers several advantages, including a high-technology storage system for standard-size files. The Court will continue to store its extensive collection of oversize site plans and atlases in specially designed drawer cabinets moved from the Brooke Courthouse.

"The Land Court has to keep more files in perpetuity than other court departments," Chief Justice Scheier explained. "Our new file system allows



Judge Alexander H. Sands III presides over a trial in one of the Land Court's four courtrooms, assisted by Law Clerk Kristen Ploetz.

us to store and retrieve essential records more efficiently than before."

Equipped with a state-of-the-art digital recording system, called CourtSmart, the Court automatically records every word spoken in the courtrooms. The files recorded by the new system are accessible by computer, and copies and archives will be available on compact disks rather than cassette tapes.

"The quality of the recordings is exceptional, and the system is very user-

friendly," Chief Justice Scheier said.

The statewide Land Court's technological advances will continue in the spring, when it will become the first department of the Trial Court to use the web-based version of *MassCourts*, the case docketing and information system that will be introduced to every Trial Court in the Commonwealth. Land Court judges and staff will begin learning how to use *MassCourts* in January, with the system scheduled to be fully operational in March. ■

*Trial Transcripts**continued from page 1*

Justice Mark V. Green, in June submitted its Report to the Supreme Judicial Court, which directed that it be widely distributed for comment.

"The Justices of the Supreme Judicial Court have been concerned about the accuracy and length of time required to create the official record of proceedings in the Trial Court," Supreme Judicial Court Chief Justice Margaret H. Marshall said. "Accurate trial transcripts, efficiently prepared by courts throughout the

Commonwealth, are crucial to the judicial process. We are pleased with the work that the members of the Committee have done in recommending ways to improve that process, and are gratified by the large number of helpful remarks received during the comment period."

In January, Chief Justice Marshall forwarded the Report and comments to the Administrative Office of the Trial Court for the development of an implementation plan.

The thirteen members of the Committee interviewed dozens of people involved in producing trial transcripts, observed how other states handle the task, and researched advances in recording and transcription technology. In addition to Justice Green, the Committee comprised Appeals Court Clerk Ashley Brown Ahearn; Hingham attorney Thomas J. Carey, Jr.; Committee for Public Counsel Services Senior Counsel Carol A.

*Trial Transcripts**continued on page 3*



## Supreme Judicial Court Chief Justice Marshall Meets with Staff of The Boston Foundation

The Boston Foundation President Paul S. Grogan, right, invited Supreme Judicial Court Chief Justice Margaret H. Marshall to be a guest speaker at a Foundation meeting in December. The Boston Foundation is a major grantmaker, philanthropic organization, and civic leader, made up of more than 750 charitable funds established by donors for the benefit of the Greater Boston community. Chief Justice Marshall spoke at the Foundation as part of the Supreme Judicial Court's ongoing efforts to meet with community and business organizations to discuss the importance of the role of the Judicial Branch in a constitutional democracy.

### *Trial Transcripts*

*continued from page 2*

Donovan; Superior Court Judge Elizabeth B. Donovan; Worcester attorney Francis P. Driscoll; Administrative Office of the Trial Court General Counsel Alexander G. Gray; John H. Henn, attorney at the Boston firm of Foley Hoag LLP; District Court Circuit Judge Stephen S. Ostrach; AOTC Acting Chief of Staff Robert P. Panneton; Juvenile Court Case Manager Jacqueline P. Schelfhaudt; District Court Regional Coordinator Darryl G. Smith; and Dukes Probate and Family Court First Justice Stephen C. Steinberg. Supreme Judicial Court Justice Robert J. Cordy served as the Court's liaison to the Committee, which also was assisted by Supreme Judicial Court Administrative Attorney Sandra Lundy.

The Committee reported that the current process "is a complex and poorly structured system, virtually devoid of effective management." It recommends that an Office of Court Reporting and Transcription Services be created within the Administrative Office of the Trial Court to manage the recording of all Trial Court proceedings and the preparation of transcripts.

**'The need to improve the production of trial transcripts is the type of management issue addressed by the Visiting Committee on Management in the Courts last year. We will apply the principles outlined in the Visiting Committee's Report — clarifying lines of authority and creating standards of performance and accountability.'**

— Chief Justice for Administration and Management Robert A. Mulligan

A minority report, written by Judge Donovan, agrees with the assessment that changes should be made in how trial court transcripts are produced, but states that the creation of a new office is unnecessary.

"As directed by the Supreme Judicial Court, the Trial Court will effect management changes to expedite the timely filing of accurate transcripts to better serve the residents of Massachusetts engaged in the appellate process," Chief Justice for Administration and Management Robert A. Mulligan said.

"The need to improve the production of trial transcripts is the type

of management issue addressed by the Visiting Committee on Management in the Courts last year. We will apply the principles outlined in the Visiting Committee's Report — clarifying lines of authority and creating standards of performance and accountability — and work closely with the judges and staff of all seven Trial Court Departments, transcription personnel, the legal community, and the Legislature to build on the commendable work done by the Study Committee on Trial Transcripts," he said.

# Interpreter Services Cited as Management Model

The Office of Court Interpreter Services, cited by the National Center for State Courts as a model of effective management, has steadily developed over the last several years as it provides interpreters for thousands of litigants in courts throughout the Commonwealth to ensure access to justice for people who don't speak English.

"Court interpreting services began years ago on an ad-hoc basis, through the extraordinary efforts of several individuals," said Superior Court Judge Isaac Borenstein, the Chair of the Committee on Administration of Interpreters. "However, as everyone recognized how essential interpreter services are for the dispensing of justice at every Trial Court in Massachusetts, it became apparent that we needed to create a modern management structure capable of efficiently providing that service statewide."

The Office of Court Interpreter Services was created as a part of the Administrative Office of the Trial Court by the enactment of G.L. c. 221C, §7, in December, 1986. Its modernization began with the reconstitution of the oversight Committee on the Administration of Interpreters in 1998. Judge Borenstein was named Chair of the Committee by then Chief Justice Barbara A. Dortch-Okara.

In 2000, the Committee obtained funding and technical assistance from the National Center of State Courts to review OCIS procedures and recommend ways to improve management. In

its report of March, 2001, the NCSC found that interpreter services were "an operation in crisis." Among its twenty-six suggestions for resolving the problems were recommendations to clarify the OCIS mission, goals, and objectives; hire more staff; develop clear, consistent lines of authority and



Court Interpreter Jaime Fatas, left, interprets for a defendant in Salem District Court, with Regional Administrative Judge Robert A. Cornetta, right, presiding. Mr. Fatas is permanently assigned to Salem, where he interprets Spanish for people in the Salem District Court, Essex Probate and Family Court, and Essex Superior Court.

accountability procedures within the staff; establish a training and certification system for interpreters; and write a comprehensive manual of standards and procedures.

"We have followed many of the report's recommendations," Judge Borenstein said. "The Office of Court Interpreter Services needed to implement structural changes, and we now have strong staff leadership, a training director, a rational organizational scheme, computerized records, and cleaner, clearer lines of authority. There is now a much more efficient method of assigning our hardworking, dedicated interpreters to courts as needed."

Gaye Gentes, who was hired as the Manager of Court Interpreter Services

in April, 2001, heads a staff of thirty-two people, including twenty-two staff interpreters. In addition to the staff interpreters, OCIS also relies on a pool of 131 qualified court interpreters who are assigned to courts on a per-diem basis. From July through October, 2003, the office arranged for interpretation services for 22,410 litigants speaking 53 languages.

"A major change over the past two and a half years is that we were able to hire eighteen new staff interpreters," Ms. Gentes said. "We've also become more efficient and cost-effective by identifying a number of courts that are better served by having an interpreter there full-time, rather than by the assignment of per-diem interpreters."

For example, Springfield District Court in fiscal year 2002 frequently relied

on per-diem interpreters. However, Ms. Gentes said, "last year we hired a full-time Spanish interpreter, Enrique McDonald, and we have saved \$70,000 by having him there every day."

OCIS also has strongly encouraged courts to "bundle" cases in which there is a known need for interpreters to be heard on the same day. "Thanks to the cooperation of courts across the state, bundling has been so successful that it is now an ingrained procedure," she said.

Per-diem interpreters will continue to interpret for courts with less steady needs, particularly for clients who



*Court Interpreters**continued from page 4*

speak languages other than Spanish and Portuguese, the languages of nearly 90 percent of court interpreter clients.

"Right now we're seeing a shortage of qualified interpreters of American Sign Language," Ms. Gentes noted, adding that the office also was seeking an interpreter of Dinka, a language of western Africa.

Yet despite a few ongoing needs, the OCIS is now operating so efficiently that it is considered a national model. NCSC Principal Court Management Consultant David C.

Steelman, who led the operational review in 2000 and 2001, recognized the dramatic managerial improvements in September, when he presented a special award from the NCSC to Judge Borenstein for his leadership of the Committee.

"The Massachusetts courts can provide access to justice for non-English speakers at a level that makes Massachusetts one of the national leaders in the provision of court interpreter services," Mr. Steelman said.

Judge Borenstein, however, credits many people for the changes.

"None of these improvements would have come about without Chief Justice Dortch-Okara several years ago establishing access to justice for non-English speakers as a high priority," he said. "Many judges, administrators, court staff, and interpreters, as well as the members of the Legislature, have worked very hard to realize the improvements that have been made. People throughout the court system are all deeply committed to providing fair, equal justice to everyone in Massachusetts. It's just a matter of giving them the proper tools to enable them to do so." ■

*Trial Transcripts**continued from page 3*

## The Report

The Trial Transcript Report states that delays in transcription are "the single greatest impediment to the progress of cases appealed from the Massachusetts Trial Courts," and lays the blame for the difficulties on lack of a cohesive, rational management structure.

"The system for producing Trial Court transcripts has simply grown up over the years without any guiding direction," Justice Green said. "Sub elements of the process have direction, but the process across the entire court system has never been identified as a subject unto itself."

Yet until the record is assembled and the case is entered onto the Appeals Court or Supreme Judicial Court docket, the Report notes, "the appellate courts have no way to know until after the fact that a case awaiting their review has been delayed by transcript production."

In the absence of a well-defined court procedure for monitoring a case as it moves from the Trial Court to an appellate court, the burden of keeping the case moving falls on appellate counsel.

Variations in how transcripts are produced within the Trial Court Departments complicate the process.

**'People want to do a good job. We just have to set up the systems necessary for everyone to do that good job.'**

— Appeals Court Justice Mark V. Green,  
Chair of the Study Committee  
on Trial Transcripts

In the Superior Court, transcripts are produced by court reporters, who record proceedings either by using a stenograph machine or by repeating everything that is said in the courtroom into a tape recorder. The reporters then transcribe either the stenographic notes or the audiotape. A few court reporters have the equipment and training to produce "real-time" transcripts, the text of which can be viewed on personal computers in the courtroom as the proceedings occur. Edited, official transcriptions of proceedings are produced much more quickly from real-time transcribing than from other methods.

The Report commends the accuracy of transcripts produced by most court reporters, but points to problems with delays. Of Superior Court cases docketed in the Appeals Court from

December 2001 to February 2002, the amount of time elapsed between when a transcript was requested and when it was delivered ranged from thirteen days to 1,701 days in criminal cases, and from seven days to 529 days in civil cases.

Other departments of the Trial Court record sessions on audiotape, which are transcribed by non-court employees on a contract basis. Although delays are not as long as in the Superior Court, the Report says, "transcript accuracy is of far greater concern. Transcripts often are missing portions of the proceedings, and testimony is often untranscribed because it is 'inaudible.'"

## Resource Allocation

Given the superior quality of transcripts produced by court reporters, the Report recommends that the proposed Office of Court Reporting and Transcription Services be given the duty of assigning court reporters to trials conducted in all seven Trial Court departments according to an established set of priorities.

"From a management perspective, court reporters are an inherently scarce resource within the Trial Court. When you have a scarce

*Trial Transcripts**continued on page 6*



## Judges Finalize 74 Adoptions on National Adoption Day

Franklin/Hampshire Juvenile Court First Justice Lillian Miranda, at right, poses with three children, their family and friends to commemorate the finalization of the children's adoptions on National Adoption Day, November 21.

Judges of the Juvenile Court and Probate and Family Court finalized the adoption of seventy-four children after ceremonies held at the Franklin/Hampshire Juvenile Court in Greenfield and at the Edward W. Brooke Courthouse in Boston. Speakers at the ceremonies included Probate and Family Court Chief Justice Sean M. Dunphy, Juvenile Court Chief Justice Martha P. Grace, Lieutenant Governor Kerry Healey, legislators, and other state and local officials. The day's events, held for the first time in Massachusetts as part of a national campaign to raise public awareness of the need for more adoptive families, were sponsored by the Trial Court, the Massachusetts Adoption Resource Exchange, and the Massachusetts Department of Social Services.

### *Trial Transcripts*

*continued from page 5*

resource, you need to allocate it in a way that is matched as closely as possible to the needs of the entire Judicial Branch and its constituents," Justice Green said. The Report calls for court reporters to be assigned to the cases most likely to be appealed according to an established set of criteria without regard to Trial Court department, while all other cases should be recorded with upgraded recording systems.

"Placing digital recording devices with the proper number of microphones in courtrooms, then setting up a standard procedure for sending out the recordings for transcription would be an enormous leap forward," Justice Green said. "Having a court reporter in every courtroom would be ideal, but that simply isn't realistic."

He added that using upgraded, reliable recording systems in all Trial Court departments also would allow court reporters more time to reduce the current backlog in transcript prepara-

tion and to train on real-time transcription methods.

### Electronic Recordings

The Report notes that new digital recording systems would cost between \$7,000 and \$15,000 per courtroom. The audio files produced by digital recorders are much easier to store, copy, distribute, and play back than audiocassettes. The audio content also can be electronically searched for specific testimony.

The Report also suggests creating a new position of recording monitors, who would make sure that the equipment is working properly and make an accompanying electronic file that would contain information such as who is speaking and present in the courtroom.

Beyond the technical issues, however, is a lack of standards and procedures for transcribing the recordings. The Committee found that there is no system for monitoring the quality of

transcripts; ordering, duplicating and distributing tapes; or even formatting the resulting transcript.

"When we began this process I had thought that many of our problems would be solved if we just invested in new technology and the associated training. What we learned very quickly, however, is that the problems were more an issue of a lack of management. What is needed are systems for monitoring and achieving well-defined series of steps that have to take place in the progress of a case from notice of appeal to the entry onto the docket of the Appeals Court or the Supreme Judicial Court," Justice Green said.

"We have many terrific people working in the court system," he said. "I was very impressed with the dedication and professionalism of the court reporters and others involved in making trial transcripts. People want to do a good job. We just have to set up the systems necessary for everyone to do that good job." ■

## COMPASS POINTS



### Superior Court Judge Julian T. Houston Presented National Award

The American Society of Criminology awarded Superior Court Judge Julian T. Houston its 2003 President's Award for Distinguished Contributions to Justice at its annual conference in Denver in November.



Judge Houston is only the third person selected for the award.

"Judge Houston has initiated many innovative programs and projects in the Boston area and in doing so he has demonstrated a lifelong commitment to justice, especially for African-Americans, throughout his career," said ASC President John H. Laub.

Judge Houston was appointed to the bench in 1978, when he became a judge at the Roxbury District Court. He was appointed to the Superior Court in 1990. He was instrumental in the development of court child care centers as the Chair of the Trial Court Care Project Advisory Committee. He also is a founder of the George L. Ruffin Society, which is devoted to creating greater understanding between the minority community and the criminal justice profession, and promoting the advancement of minorities in the field of criminal justice.

### Ethical Opinions for Judges and Clerks are Posted on Court Website

Advisory opinions by the Advisory Committee on Ethical Opinions for Clerks of the Courts, written in response to questions asked by court clerks, registers, and their



Gathered near two of the approximately forty personal computers in the Boston Municipal Court that access the MassCourts system are, clockwise from upper left: Richard McKinnon, Supervisor; Mark Concannon, Assistant Clerk in Charge of Juries; Paul W. Johnston, IT Project Lead Court Operations Analyst; Thomas Nellson, Head Administrative Assistant; Patricia Neff, Office Manager; Rosemary Carr, Assistant Clerk-Magistrate; and Denise Donovan, Judicial Assistant.

### MassCourts Debuts in Boston Municipal Court

*MassCourts* has become a routine management tool used daily by the staff of the Boston Municipal Court Clerk's Office for Criminal Business since its installation there in November. The office is the first to have access to the automated case information and management system, which will connect every Trial Court in Massachusetts by the end of 2006.

About thirty-five personal computers in Clerk-Magistrate Daniel J. Hogan's office, as well as computers in seven courtrooms, can access the system.

"Installing *MassCourts* has gone very smoothly, thanks to the enthusiastic support and hard work of Clerk-Magistrate Hogan and the staff," said Paul W. Johnston, the IT Project Office Lead Court Operations Analyst who supervised the installation.

Each staff member learned how to use *MassCourts* during week-long training sessions conducted by IT Project staff and representatives of Maximus Justice Solutions, the company that produced the system software. *MassCourts* will be introduced to the Court's Civil Division in January.

assistants, have been added to the court system website.

Advisory opinions for judges, written by the Committee on Judicial Ethics, are also available online. The nearly 250 opinions for both, dating back to 1989, are

organized chronologically and by topic. The advisory opinions may be accessed from the home page of the Supreme Judicial Court at: [www.state.ma.us/courts/courtsandjudges/courts/supremesupremecourt/index.htm](http://www.state.ma.us/courts/courtsandjudges/courts/supremesupremecourt/index.htm).



## Chief Justice Mulligan Meets with Judges and Staff Throughout Massachusetts

Supreme Judicial Court Chief Justice Margaret H. Marshall, center, and Chief Justice for Administration and Management Robert A. Mulligan, right, speak to justices and staff of the Supreme Judicial Court and the Appeals Court during a question-and-answer session at the Supreme Judicial Court in December. Chief Justice Mulligan was the guest speaker at the informal session, moderated by Supreme Judicial Court Executive Director Ronald P. Corbett, Jr., shown at left. Since taking office on October 1, Chief Justice Mulligan has discussed court issues at meetings held throughout Massachusetts with judges, court staff, attorneys, legislators, and media representatives.



## CALENDAR



### JANUARY

- 21** Judicial Institute: "Small Claims Procedure: Discussion and Feedback on the New Rules," for Clerks and Assistant Clerks in Boston Municipal, District, and Housing courts, from 9:00 a.m. to 1:00 p.m. in Worcester. (Also in Brockton on March 10.)
- 24** SJC Chief Justice Margaret H. Marshall's Keynote Address at the Massachusetts Bar Association's Annual Conference, at the Sheraton Boston Hotel.

### FEBRUARY

- 4** Judicial Institute: "Handling Felonies since the *West Roxbury* Case," for Clerks and Assistant Clerks in the Boston Municipal, District, and Juvenile courts, from 9:00 a.m. to 1:00 p.m., in Waltham.
- 5** Judicial Institute: "Management Essentials: Fiscal Management," for senior managers, from 8:30 a.m. to 4:00 p.m. in Waltham. ("Management Essentials" topics also will be presented February 10 in Waltham and March 16 in Shrewsbury.)
- 6** Flaschner Judicial Institute: "Evidence: You Be the Judge," from 9:00 a.m. to 5:00 p.m., in Lexington.
- 25** Judicial Institute: "Legal Issues in Small Claims Cases: Lemon Law and Debt Collection," for Clerks and Assistant Clerks in Boston Municipal, District, and Housing courts, from 9:00 a.m. to 1:00 p.m. in Brockton.

### MARCH

- 4** Judicial Institute: "Command Spanish," for Clerks, Registers, Assistant Clerks, and Assistant Registers, from 8:00 a.m. to 1:00 p.m. in Shrewsbury. (Also on March 11 and March 18.)

For more information on Judicial Institute programs, call (617) 788-6775.

For more information on Flaschner Judicial Institute programs, call (617) 226-1565.

## The Court Compass

**The Court Compass is a quarterly publication written and produced by the Public Information Office of the Massachusetts Supreme Judicial Court. Please send questions, comments, ideas, or letters to Joan Kenney, Public Information Officer, or to Bruce Brock, Publications Specialist.**

**Joan.Kenney@sjc.state.ma.us  
Bruce.Brock@sjc.state.ma.us**

**Public Information Office  
Supreme Judicial Court  
One Beacon Street, 3rd Floor  
Boston, MA 02108**

**Telephone: (617) 557-1114  
Fax: (617) 742-1807**

